

Without objection, Motion granted. Jury trial previously set in this matter is Vacated and will be reset at a later date. The delay caused by this request is excludable for the following reasons pursuant to the indicated statutory authority: Delay is necessary to allow adequate preparation and the delay is therefore excludable in the interest of justice and outweighs the best interests of the public and the defendant in a speedy trial pursuant to 18 U.S.C. §3161(h)(7)(A). Time excluded until 3/1/2019.

So Ordered.

/s/ James G. Carr
Sr. U. S. District Judge

UNITED STATES DISTRICT COURT
for the
Northern District of Ohio

United States of America,	:	
	:	Case No. 3:18CR00026
Plaintiff(s),	:	
	:	James G. Carr
vs.	:	United States District Court Senior Judge
Karl J. Rogers,	:	
	:	
Defendant.	:	

MOTION TO CONTINUE JURY TRIAL

NOW COMES the Defendant, Karl J. Rogers, by and through undersigned Counsel, Reese M. Wineman, and respectfully requests that the Jury Trial currently scheduled to commence on Tuesday, February 5, 2019, at 9:00 a.m., with Voir Dire set for Friday, February 1, 2019, at 9:30 a.m., be continued in order to grant the Defendant and his counsel reasonable time to investigate and review discovery and so that the Defendant enjoys his right to counsel, pursuant to the provisions of Title 18, United States Code, Section 3161; and, specifically, (7)(A)(B), which states: The factors, among others, which a judge shall consider in determining whether to grant a continuance under subparagraph (A) of this paragraph in any case are as follows: (iv) Whether the failure to grant such a continuance in a case which, taken as a whole,

is not so unusual or so complex as to fall within clause (ii), ...would deny counsel for the defendant... the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. For purposes of this Motion, in the last week, undersigned Counsel for the Defendant Karl Rogers, has received the following since the January 15, 2019, Change of Plea deadline:

1. On January 21, 2019, Martin Luther King, Jr., Day, a day when undersigned Counsel was not in the office, via Fed Ex, a CD was delivered containing bates-stamped Documents 397-434; ICAC Clean Forensics Report; and Search warrant photos; with some duplicates noted, but provided with other items that had not been previously provided, according to correspondence dated January 18, 2019, from Assistant U.S. Attorney, Tracey Ballard Tangeman, who gave undersigned Counsel the heads up via e-mail on the date her office received it on January 18, 2019, which consists of forty-seven (47) pages (a copy of which is attached hereto and incorporated herein as if fully rewritten), not including eighty-eight (88) photographs, which undersigned Counsel did not have a chance to review until late afternoon on Tuesday, January 22, 2019.
2. On January 17, 2019, undersigned Counsel received, via e-mail, Joint Proposed Jury Instructions consisting of thirty-eight (38) pages.

For further purposes of this Motion, in addition to the aforementioned, as recently as January 9, 2019, representative samples of Child Pornography being used at Trial in this matter was made available to undersigned Counsel for the Defendant to view on January 11, 2019, which consisted of approximately twenty (20) images and videos. Further, for purposes of this Motion, undersigned Counsel met with the Defendant on January 15th, 2019; and was scheduled

to meet with Mr. Rogers again on January 21st, 2019; but was unable, due to the inclement weather, and, due to all-day depositions scheduled in other cases, will not be available to meet with the Defendant again until January 24th, 2019, to review the Proposed Jury Instructions, and Witness List, as well as the recently received Discovery received by undersigned Counsel on January 21st, 2019, which the Assistant U.S. Attorney did not receive until January 18th, 2019.

WHEREFORE, the Defendant respectfully requests that the Jury Trial in this matter be continued and rescheduled pursuant to provisions of Title 18, United States Code, Section 3161, based upon the recent receipt of Discovery, previously unavailable/unknown, only ten (10) days out from Voir Dire, because the ends of justice is served by taking this action and outweigh the best interest of the public and the Defendant in a speedy trial by the granting of the Defendant and his counsel reasonable time to investigate and review discovery and so that the Defendant enjoys his right to counsel, pursuant to the provisions of Title 18, United States Code, Section 3161.

Respectfully submitted,

/s/ Reese M. Wineman
Reese M. Wineman (0032268)
6 West Main Street
Norwalk, Ohio 44857
(419) 668-6840 Telephone
(419) 668-7720 Facsimile
Attorney for the Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of January, 2019, a copy of the foregoing instrument was filed electronically with the District Court's electronic filing system wherein all parties may access it.

/s/ Reese M. Wineman
Reese M. Wineman (0032268)